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The Necessity of MAGISTRACY from the Vices of Mankind.

A N
Affize **S E R M O N,**

Preached at

Kingston upon Thames,

AUGUST 16, 1745.

Before the RIGHT HONOURABLE

Sir **WILLIAM LEE**, Knt.

Lord Chief Justice of *England*;

And the HONOURABLE

Mr. Justice **BURNET.**

By **REEVE BALLARD, M. A.**

Chaplain to the Right Honourable the Lord **ONSLOW**,
and Vicar of *Great Bookham* in *Surry*.

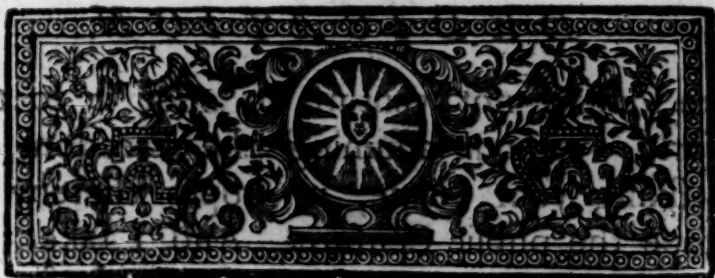
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Gentlemen of the Grand-Jury.*

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THE
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OF THE
GRAND-JURY.

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TO

Peter Thompson, Esq;

HIGH-SHERIFF of the County
of *Surry*.

S I R,

THE following Discourse is an Attempt to expose the chief Causes of Vice, unbounded Liberty, and Licentiousness; and to shew the Necessity of laying proper Restraints upon Men of these unhappy Principles. The Defects, I am sensible, are so many, that there is great Need of a Person of known Abilities to patronize it; and therefore

fore I could not venture to offer it to the World, without assuming the Freedom of prefixing your Name, in hopes thereby to escape the public Censure. And I take this Opportunity, to express my Gratitude for all your Favours, and to declare how much

I am, SIR,

Your most humble, and

Most obedient Servant,

Great Bookham,
September 19, 1745.

Reeve Ballard.

E Z R A

E Z R A vii. 25, 26.

Thou, Ezra, after the Wisdom of thy God, that is in thy Hand, set Magistrates and Judges, which may judge all the People of thy Nation.

And whosoever will not do the Law of thy God, and the Law of thy King, let Judgment be executed speedily upon him, whether it be unto Death, or unto Banishment, or to Confiscation of Goods, or to Imprisonment.

E Z R A, (in the Book which bears his Name, and was in the Opinion of most Commentators^a written by himself) has given us that Part of the *Jewish* History which relates to their Captivity in *Babylon*, and their Re-establishment in *Judea*.

BUT particularly in the Chapter of the Text, he entertains us with the Account of his own Mission to them, after their Recovery from their captive State.

THIS *Ezra* was a Person of great Depth and Penetration; he was a ready Scribe, and perfectly understanding in the Law of *Moses*: And as a Man of such wonderful Talents and Abilities, was employed by the great *Persian* King^b, to reform the Lives and Manners of the Children of *Israel*.

B

H E

^a Dr. *Well's* Paraphrase: Also the Annotations of some Learned Divines, published at *London* in the Year 1651.

^b This *Persian* King was by Name *Artaxerxes*, as after-mentioned. He was called by the *Greek* Historians *Μακρόχεις*, by the *Latins*, *Lingimānus*, by Reason of his more than ordinary Length of Hands, for he could stand upright, and touch his Knees with them. See Dr. *Prideaux's* Connection.

HE accordingly went up from *Babylon* for this Purpose, and bore with him a Commission full and clear, that issued from one of the highest Authorities upon Earth, from that great King *Artaxerxes*, who had Kings tributary and subject unto him. But as this Office was of too difficult a Nature to be executed without proper Assistants, he had a Power granted him to appoint Judges and Magistrates, as his Companions in the regular and faithful Discharge of his Duty.

IT is plain, from the Letter of the Text, what the Business of these Magistrates consisted in, *They were to judge the People, i. e.* they were to be Arbitrators between Right and Wrong, between the different Parties contending; and in criminal Causes, were to be Protectors of the Innocent, and to decree Punishment on the Offenders, to bring the Offenders to Shame, and, as the Language of the Prophet is, *to let the Oppressed go free*, *Isaiah lvi. 6.* and also to proportion and measure out the Punishment according to the Degree and Nature of the Offence: Some were to suffer Death, others Banishment, some the Loss of their Goods, and others Imprisonment. The Duty and Office of a Magistrate, in those Days, consisted in these Particulars; these Particulars are the same in our Days, and which are as punctually observed, and executed with as much Integrity.

FROM hence, then, as the Text is so suitable to the Occasion of our present Solemnity, I will beg Leave,

First, To make some Remarks on the Necessity of Magistracy. And,

Secondly, On the Punishment of Offenders.

First

First then, I am to observe to you the Necessity of Magistracy. To convince us of this, we need but reflect on the unruly Wills and Tempers of Men; how perverse would our Inclinations be, without restraint! How headstrong! How impetuous! The Reason of Man, is not sufficient for the Government of Man: She often gives up her Empire to the Passions; and then how confused must his Condition be? who owns the Sovereignty of those only, which, in the End, will prove his Undoing. Our Passions, if given a loose to, are more raging than the Hurricane, they will lead a Man, to Oppression, Rapine and Spoil; nay, to the uttermost Ravage and Cruelty, if ungoverned, if uncontrouled.

In this Situation, our Beings would be more precarious than they are, perhaps too, more liable to fall by the Hands of our Fellow-creatures, than by the usual Accidents of Life. A Man's Enemies might be those of his own Household, and our Property would be exposed to the Incursions of our Neighbour. From hence arise the Necessity of Magistrates, to secure the Beings of Men, and their Property, from all hurtful Invasions.

WHEN *there was no King in Israel, every one did that which was right in his own Eyes.* Judg. xvii. 6. When there was no Magistrate to rule, there was no Law obey'd, and every Man might be a *Micah* without controul; in this State of Anarchy and Confusion, They fell into the grossest Acts of Impiety, and when there was no constraint to worship the true God, their God of Gold, had its worshippers. Such was the desperate Condition of the *Israelites*, when they had no Discipline to restrain them, nor any Magistrate to punish them.

GOD Almighty, who was concerned for the Peace of this lower World, thought it requisite for the general Benefit of Man, to appoint Judges and Rulers over the People, and to invest Persons with proper Authority to keep good Discipline among them; for he hath put the Sword into their Hands, for the Punishment of Evil-doers: Let the Dissolute and Irreligious tremble, *For they bear not the Sword in vain.* Rom. xiii. 4.

MAGISTRACY, though it is an Ordinance of Man, as to the Subject, being born by Man, yet in regard to the Invention of it, it is the Ordinance of God; it is of divine Institution, and loaded with divine Epithets in Scripture. It is there said, that God Almighty made a regular Appointment of Judges, from the Time of *Joshua* to the Establishment of the Kings. *Moses*, who was the first, finding the Burthen of the Office too heavy for his single Care, *chose able Men out of all Israel, and made them Heads over the People, Rulers of Thousands, Rulers of Hundreds, Rulers of Fifties, and Rulers of Tens; and they judged all the People at all Seasons:* Exod. xviii. 25. 26. It is likewise said of *Samuel*, that *He went from Year to Year in Circuit to Bethel, and Gilgal, and Mizpeh, and judged Israel in all those Places.* 1 Sam. vii. 16.

IT would be needless to recount the numerous Passages of Scripture Evidences on this Occasion; for as soon as the supreme Ruler of Heaven had Peopled the World, He immediately discovered the Necessity of subordinate Rulers, to whom he committed the Care and Protection of his People, whom He made use of for his own Service, invested with his Power, and called them by his own Name.

SUCH

SUCH a height of Dignity and Honour, did God ascribe to the Office of Magistracy, that we are commanded under the Gospel Dispensation, to honour them for their Office-sake; and *Titus* has an Apostolical Injunction, to *put them in mind, to be subject to Principalities, and Powers, and to obey Magistrates.* Tit. iii. 1.

Crimen læsæ Majestatis, was by the Roman Laws, an Offence of the highest Nature, and we find, that the Roman Governors, Those, who presided in the Courts of Justice, were entitled by the high Character of their Office, to Marks of Honour and Distinction; and what was among the Romans, the same is in all Countries and Governments, a Difference and Obedience is expected and paid to the Leaders and Rulers of them.

WHOEVER disputes this Point, must be weary of the Blessings we enjoy; for the publick Welfare and Happiness of a People, depend upon a regular Dominion, and he, who would throw down the Pillars of it, not unlikely, may be crushed by the Fall. *St. Jude* mentions in severe Terms, the Punishment that will attend those, who *despise Dominion and speak Evil of Dignities*; Jude viii. And it is to be remarked, that God, when he threatens *Jerusalem, and Judah, that He will take from them, the Staff of Bread, and the Stay of Water*: He subjoins an additional Judgment, that he will take from them too, *the Judge, the Prophet, the Prudent, and the Ancient.* Isaiah. iii. 1, 2.

St. Peter's Advice to us, will be an apposite Conclusion for this Head, which is, *to submit ourselves to every Ordinance of Man, for the Lord's Sake, whether it be, to the King, as supreme, or unto Governors, as unto them, that are sent by him, for the Punishment of Evil-doers, and for the Praise of them that do well,* 1 *St. Peter, ii .31. 14.* And surely we have the greatest Reason

Reason to submit ourselves, who can say, without the least Adulation, that in no Nation upon Earth, is there such an equal Administration of Justice, as in our Nation.

THE next Head to be discussed, is about the Execution of the Laws for the Preservation of Government, and for the Punishment of Offenders.

THE Supposition, that Men would not be a Law unto themselves, was the Reason of enacting Laws for the Government of Men, and from the Fore-knowledge of this, God no sooner had put Breath into our Mouths, but He put a Law into our Hearts, and withal annex a Reward or Penalty, upon our Observance or Disobedience. The *Jewish* Leaders, were at the same time, invested with a directive and a coercive Power, the one to make Laws, the other to enforce the Execution of them: Our Saviour, when his Laws were promulgated, annexed a Threatning and Reward.

THE Sanction of a Law, is the Execution of it; and the Execution of it procures the Regard to it; the Argument, the Wise Man assigns for the growth of Impiety, is, *because Sentence against an Evil Work is not speedily executed, therefore the Hearts of Men are fully set in them to do Evil.* Eccles. viii. 11.

It is true indeed, we are not to take our Measure of Mankind in general, from the Unworthyness of a few: But the frequent Returns of these Meetings, are a lamentable Conviction, that there are those, whom nothing less, than the severest Correction will awe to a Sense of their Duty; they have leaped over, as a broken Hedge, all the Admonitions of Conscience, and the Terrors of a future Judgment, as they are hid from their Eyes, have had no Influence on their Lives: The Worm that never dies, and the Fire that is not quenched, though

though in another World, they would most assuredly await the Refactory and Impenitent, have lost their Power here; temporal Punishments have greater Influence, though the Spiritual are as certain, and much more dreadful.

THIS being premised, that the Threatnings at Christ second coming, to judge the World, have not their proper Weight upon the Minds of harden'd Sinners, it will be found necessary to have recourse to human Judicatures, where the Punishment is visible and exemplary. Impressions from without, strike deeper on the carnal Man, consequently no Terrors will be of so much Efficacy, as those, which concern Sensation.

IT were much to be wished indeed, that a Discipline of this Sort, was not so needful; that Men would be more afraid of the Displeasure of the Divine Laws, than of the Stripes and Terrors of this World; but the Misfortune is, Prospects at a distance, neither affright nor dismay us; we won't see our Ruin, till we feel it, and where our Reason should be strongest, she is weaker than usual. But,

Secondly, All Government was design'd for the Benefit of the Governed, and the Laws are the Strength and Sinews of it; the Use of it has been experienced in all Ages, and in all Countries; and however controverted each particular Form or Mode of Government may have been, the Community, of which we have the Happiness to be Members, hath certainly this preheminance, that we are governed by Laws of our own making; and how can any one complain at the Sentence of that Law, which himself had a Share in enacting.

THIS Advantage also, may be added to the Happiness of our Constitution above all others, That of all others, it is the most free, disinterested, and impartial; the meanest Appellant will find as sure a Redress, for Injuries received,

received, as the most powerful ; our Laws are even and equal to both ; they are settled by the People, and the King gives them Life and Existence ; a King, who is contented to rule by those Laws his People has formed, and lets them enjoy all the Advantages, without the Inconvenies of an absolute Monarchy.

ATTENDED with such Blessings, what could affect the quiet of our Being ? Were we Just to ourselves, and Just to one another ; did we live without giving Offence to God, and without invading the Rights of our Neighbour. Even *Machivel*, who was no great Admirer of the Ways of Providence, makes the Practice of these Virtues, eminently necessary to the Welfare of a State, and the Neglect of them, its Destruction. *Disc.* 1. xii. ^c *Cicero* too, though a Heathen, makes this Remark on the *Roman Republick*, That her Dignity and Honour were then most conspicuous and extended, when she flourished most in Virtue, and that her Decrease in the former, was attributed to her falling off in the latter ; which is a second Argument to enforce the Suppression of Sin and Wickedness, as essential to our Peace and Quiet, to our Welfare and Happiness.

A *Third* is for Example-sake. Under the *Mosaick* Dispensation, Punishment was instituted, as much at least, for the Sake of Example, as for the Satisfaction of Justice, *That all the People may bear and fear, and do no more presumptuously.* Deut. xvii. 13. And in the *Christian Church*, *If any one was found in a Fault, he was sure to be publickly rebuked, that others also might fear.* 1 Tim. 5. xx.

INDEED the Force of Example in all Circumstances is evident, and we learn from the Treatment of others, what

^c *Tutamen, sive habes aliquam spem, sive desperas, ea para, meditare, cogita, quæ esse in eo civi ac viro debent, qui sit remp. afflicta et oppressa miseris temporibus ac perditis moribus, in veterem libertatem et dignitatem vindicaturus.* Epist. Fam. 2. 5.

what will be our own; if we see the Sinner escape with Impunity, we are encouraged to Vice, as we are Imitators of Virtue, if we see Virtue rewarded. If *Catiline* had been early check'd in his Treacherous Attempts, it might have prevented the future Mischiefs of his Life; it might have been happy for his Accomplices. When Vice is punish'd, Men are afraid of committing it; I am naturally afraid of doing an ill Act, when I behold the Consequences of it in another.

It is indeed much to be lamented, that Men will not be kept within the Rules of Justice and Honesty, without laying before them, the Terrors of Transgressing them; and how can we exhibit these Terrors, but in the exemplary Punishment of Offenders.

It has been found in all Ages, that Example is of more weight than Precept, or any other Motive; that we are more attentive to what we see in Men, than what we hear from them; for their Words, like watery Bubbles, play but upon the Surface of our Minds, while their Actions stamp a most lasting Impression. From hence arise the Necessity of putting the Laws in Execution against Offenders, that an Example of the most notorious, may be a Caution to others.

BUT I hope this Treatment of Delinquents, will not lay me under any Imputation of Severity, beyond what is absolutely requisite for the Publick Safety: What has been hitherto advanced, is only pointed at the most daring and incorrigible Sinner, on whom all milder Efforts have proved in vain, all Rebukes and Chastisement have lost their Force, nor more effectual, than beating of the Winds.

OF such Offenders, the *Roman* Senate gives us the best Method of Correction. ^d " In *Rome*, all sanguinary
B " Laws

^d Vide Dr. *Middleton's* Life of *Cicero*, Vol 1. p. 209.

“ Laws were ever odious ; Banishment with Confisca-
 “ tion of Goods was the known and ordinary Punish-
 “ ment, except in particular Instances, where the Crimes
 “ were of a very flagrant and heighten’d Nature. Then
 “ indeed, the Senate stretch’d their Prerogative, and
 “ punished the Criminals with Death.” In like manner,
 where Offences are of the deepest Dye, the Publick
 Safety calls for Punishment ; and indeed Offenders of
 this Class, have very little Claim to our Pity, Pity, that
 mild and gentle Lenitive, is scarce to be vouchsafed to
 them. But these are the only Instances, where Cor-
 rection is of the greatest Use ; and by such Treatment
 of these, we are most likely to see those blessed Times,
 when every Man shall sit safe under his own Fig-Tree,
 and under his own Vine.

EVERY one must be an Advocate for Mercy, where
 is any Room for Mercy ; the Objects of it are as nu-
 merous as the Miseries of Men, scarce any Condition
 is excluded from it : It is a Virtue as universal as any in
 the System of our Duty, and as strongly recommended.
 It is to be extended to the Ignorant, to the Unhappy,
 and even to the Sinner ; to the former indeed, at all
 Times, and on all Occasions ; but to the latter, under
 certain Restrictions, so as not to set aside the invariable
 Rule of Judgment or Justice. For He, who command-
 ed us to shew Mercy in all our Actions, commanded
 us also to do Justice : Justice is the Attribute of Heaven
 as well as Mercy.

IT is from Necessity, not by Choice, that the Laws
 are executed upon Offenders ; and I doubt not, but it
 is with great Reluctance, when the Sentence of that
 Law is pronounced, which consigns a Malefactor to
 Death or Banishment.

LENITY

LENITY is more the Delight of the human Breast, than Rigour. Punishment is not more unwillingly decreed, than received, and to every merciful Man, Severity is grievous.

BUT what Disorder and Confusion, would it introduce into these Kingdoms, was there no Punishment for Guilt? We should rather live as Herds, than Societies of Men, and like Beasts of Prey, hide within the Caves of the Earth, for fear of the Savageness and Cruelty of each other.

GREAT Pity it is, that there must be a Mixture of Fear as well as Love to preserve Societies of Men; that Men are not to be restrained by gentler Methods; and that doing Right, arises from the Dread of the Punishment of doing Wrong. The Law of Mercy, which is the Law of Heaven, enjoins us to make Punishment our last Remedy; not to apply that, till milder Means have been tried and defeated; Even in such Cases to fly to the extreme Rigour of the Law, would be a kind of Violence and Injustice. We are to weigh well the Circumstances of the Fault, and to admit every favourable one in Mitigation. But this I can have no Occasion to enlarge on to the Gentlemen of the Jury; their Duty will be much better recommended to them from another Place.

GIVE me Leave, therefore, only to add a Word of Prayer: If there should be any Wretches so unfortunate to hear the Sentence of Guilt pronounced against them, that in the short Remainder of their Days they may seriously lay to Heart the Evil of having lived in the open Transgression of all Laws both Human and Divine; that they may endeavour, as much as in their Power, to make Restitution and Satisfaction for all Injuries

judges and Wrongs done by them to any others; that
 their Sorrow and their Sufferings here may gain an
 Acquittance for them at the Heavenly Tribunal, where
 the Punishment of impenitent Sinners will be more
 fierce, more intollerable. And in a Word, let us re-
 peat our Petitions to Almighty God, that those who are
 delivered up for the Destruction of the Flesh, that their
 Spirits may be sav'd in the Day of the Lord Jesus.
 1 Cor. V. 5.

To whom with the Father and the Holy, be as-
 cribed all Honour and Glory, Might, Majesty,
 Dominion, and Power, both now and for-
 evermore.

E T N I S

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